

1 HONORABLE RONALD B. LEIGHTON  
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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

DAVID W. MCCUISTION,

Plaintiff,

v.

WASHINGTON STATE ATTORNEY  
GENERAL'S OFFICE and DR. HENRY  
RICHARDS,

Defendants.

Case No. C06-5329RBL

ORDER

THIS MATTER comes on before the above-entitled Court upon Petitioner's filing of a Notice of Appeal [Dkt. #8].

Having considered the entirety of the records and file herein, the Court rules as follows:

The plaintiff has filed a Notice of Appeal of this Court's Order Adopting Report and Recommendation [Dkt. #7] which denied the petitioner's application to proceed in forma pauperis in his habeas corpus case. For the reasons stated in the Magistrate Judge's Report and Recommendation and because petitioner has paid the filing fee, this Court declines to issue a Certificate of Appealability. The petitioner has failed to make "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2).

1 **IT IS SO ORDERED.**

2 The Clerk shall send uncertified copies of this order to all counsel of record, and to any party appearing  
3 pro se.

4 Dated this 20<sup>th</sup> day of October, 2006.

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6 RONALD B. LEIGHTON  
7 UNITED STATES DISTRICT JUDGE

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